

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JOHN CURTIS RICE,

Plaintiff,

- against -

BRIGHT MOUNTAIN MEDIA, INC.

Defendant.

Docket No. 1:18-cv-6057

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff John Curtis Rice (“Rice” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Bright Mountain Media, Inc. (“Bright Mountain” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Rebecca Wax a female New York City firefighter, owned and registered by Rice, a New York based professional photographer. Accordingly, Rice seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Rice is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 777 Kappock Street, Bronx, NY 10463.

6. Upon information and belief, Bright Mountain is a foreign business corporation duly organized and existing under the laws of the State of Florida, with a place of business 6400 Congress Avenue, Suite 2050, Boca Raton, FL 33487. At all times material, hereto, Bright Mountain has owned and operated a website at the URL: www.firefightingnews.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Rice photographed Rebecca Wax a female New York City firefighter (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Rice is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-102-604 and titled “05.03.15 Rebecca Wax Rice.jpg.” See Exhibit B.

B. Defendant’s Infringing Activities

10. Bright Mountain ran an article on the Website titled *Top 3 Firefighter and First Responder stories of 2015 are quite memorable*. See URL <https://www.firefightingnews.com/top-3-firefighter-and-first-responder-stories-of-2015-are->

quite-memorable/. The article prominently featured the Photograph. A true and correct copy of the article and a screenshot of the Photograph on the article are attached hereto as Exhibit C.

11. Bright Mountain did not license the Photograph from Plaintiff for its article, nor did Bright Mountain have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Bright Mountain infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Bright Mountain is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Bright Mountain be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. The Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
October 29, 2018

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